

February 15, 2001



Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth St., SW
TW-A325
Washington, DC 20554

Re: Non-Commercial Comparative Selection Criteria
MM Docket 95-31

Dear Ms. Salas:

On February 14, 2001 Cheryl A. Leanza of Media Access Project, representing National Federation of Community Broadcasters, Margaret L. Miller of Dow, Lohnes & Albertson, representing Rocky Mountain Public Radio, West Coast Public Radio and several individual station licensees,¹ John Crigler of Garvey, Schubert, & Barer, representing the Station Resource Group, and Michelle Shanahan, Assistant General Counsel for National Public Radio, held individual meetings with: David Goodfriend of Commissioner Ness's Office; William Jay Friedman of Commissioner Tristani's Office; and Susan Eid of Chairman Powell's office. In addition, Kathy Dole, Director of National Affairs for National Public Radio attended the meeting with Ms. Eid.

During these meetings, the participants asked for a speedy issuance of the Reconsideration Order in the above-captioned proceeding. Each participant stressed that although the various parties might disagree on precise details of the point system to select among non-commercial educational applicants, we are united in needing a decision quickly to eliminate the backlog of pending applications for reserved broadcast frequencies. We presented a time line of the history of this proceeding, a copy of which is attached, that demonstrates some applicants have been waiting almost six years for their mutually exclusive applications to be processed.

Additionally, we explained the relationship between the FCC's allocation process and the Commerce Department's PTFP grant cycle. PTFP applicants must obtain a construction permit from the FCC before the Commerce Department will approve a grant. Because of the Commerce Department's funding cycle we indicated that, in the future, the FCC should open filing windows in the fourth quarter of each year in order to allow applicants to receive a construction permit before

¹ Ms. Miller appeared on behalf of: Alaska Public Telecommunications, Inc. ("APTI"), Arizona Board of Regents for Benefit of the University of Arizona ("Arizona"), Arkansas Educational Television Commission ("AETC"), Boise State University ("BSU"), Central Michigan University ("CMU"), Greater Washington Educational Telecommunications Authority ("GWETA"), Iowa Public Broadcasting Board ("IPPB"), Iowa State University of Science and Technology, Kent State University ("KSU"), Nashville Public Radio, The Ohio State University ("OSU"), Ohio University ("OU"), Public Broadcasting Council of Central New York ("WCNY"), Regents of the University of New Mexico ("UNM") and the Board of Education of the City of Albuquerque, Spring Hill College ("WHIL"), South Carolina Educational Television Commission ("SCETV"), St. Louis Regional Educational and Public Television Commission ("KETC"), University of Minnesota ("U of M"), Virginia Tech Foundation ("VTF"), WAMC, Washington State University ("WSU"), and WSKG Public Telecommunications Council.

mid-July when the Commerce Department makes its final grant decisions.

Finally, we stressed the need for speedy implementation of the Reconsideration Order, both in issuing forms that will allow applicants to certify their point allocations, and in staffing resources to process the applications.

Pursuant to Section 1.1206, 47 C.F.R. §1.1206, this letter and its attachment are being filed electronically with your office today.

Sincerely,

Cheryl A. Leanza
Deputy Director

Attachment

cc: David Goodfriend
William Jay Friedman
Susan Eid

**National Federation of Community Broadcasters
Non-Commercial Comparative Standards Timeline**
February 14, 2001



- 1992 Commission initiates a broad review of all comparative standards criteria in GC Docket 92-52.
- 1993 D.C. Circuit rules in *Bechtel v. FCC*, 10 F.3d 874 that one of the Commission's criteria for choosing among mutually exclusive applicants for commercial licenses (the integration criterion) was arbitrary and capricious. Commission seeks additional comments based on this opinion.
- Mar. 1995 Commission issues a new *NPRM* in MM Docket 95-31 focusing on non-commercial licensees, noting the need for a speedy resolution of this proceeding. It suspends processing of all mutually exclusive non-commercial applications. Commission notes differences between various public radio proposals.
- May 1995 In response to the Commission's *NPRM*, NPR, APTS, and NFCB met to develop a joint proposal, and submit comments showing a substantial degree of agreement in support of comparative hearings.
- 1997 Congress passes 1997 Budget Act, which indicates Congressional disfavor with comparative hearings. Congress mandates auctions for mutually exclusive commercial applicants.
- Oct. 1998 Commission issues a *Further NPRM* on non-commercial comparative criteria, including a focus on lotteries as an allocation mechanism.
- Apr. 2000 Commission issues order adopting a point system for selecting among mutually exclusive applicants. Commission freezes all non-commercial educational applications.
- Jun. 2000 Parties seek review of Commission decision in D.C. Circuit.
- Nov. 2000 D.C. Circuit remands the selection process to the Commission, but moves forward on the question of whether non-commercial applicants may be subject to auctions.

Because of this delay, ***approximately 1,500 non-commercial applicants are now awaiting a Commission decision.*** If the freeze on new applications is not lifted, the Commission will exacerbate the present gridlock and encourage potential broadcasters to file for LPFM stations instead of full power stations or translators, thus adding to the Commission's administrative burden.